

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of

FOURWORLD EVENT OPPORTUNITIES, LP,
and GENESIS EMERGING MARKETS
INVESTMENT COMPANY,

Petitioners, for an Order Pursuant to 28 U.S.C.
§ 1782 to Conduct Discovery for Use in a Foreign
Proceeding.

Case No. 22-

**EX PARTE APPLICATION FOR AN ORDER PURSUANT TO 28 U.S.C. § 1782
TO CONDUCT DISCOVERY FOR USE IN A FOREIGN PROCEEDING**

1. FourWorld Event Opportunities, LP and Genesis Emerging Markets LP (“**Petitioners**”) respectfully request an order in the form attached hereto permitting Petitioners to obtain limited discovery under 28 U.S.C. § 1782 (“Section 1782”) in connection with an appraisal proceeding pending before the Grand Court of the Cayman Islands (the “**Appraisal Proceeding**”), to which Petitioners are parties. In support of their *ex parte* application, Petitioners submit a Memorandum of Law and attach the Declarations of Duane Loft, Marc Kish, and Justice Ingrid Mangatal. Petitioners further state as follows:

2. Petitioners seek the assistance of this Court to obtain discovery from Fenwick & West LLP (“**Fenwick**”) and Morrow Sodali International LLC (“**Morrow Sodali**” or, together, the “**Respondents**”), which are “found” in this District for purposes of Section 1782. Petitioners’ narrowly tailored requests (the “**Requested Discovery**”) are set forth in the proposed subpoenas (“**Subpoenas**”) and schedules attached as **Exhibits 1 and 2** to the Loft Declaration and relate to the fair value of the shares of the company 58.com (“**58.com**” or the “**Company**”), held by Petitioners prior to a merger process that led to the squeeze-out of the Company’s minority shareholders. As set forth in the accompanying declarations, the discovery cannot be obtained in

the underlying Appraisal Proceeding, but the presiding Cayman Islands court will be highly receptive to evidence sought here and assistance from this Court.

3. Section 1782 permits litigants in foreign proceedings to obtain discovery in the United States to assist in the foreign litigation. In particular, § 1782 states:

The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made . . . upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court.

4. The statutory requirements of § 1782 are satisfied here. As explained in the accompanying submissions, (1) the Respondents are “found” in this District because they both are incorporated and have their principal places of business in the District; (2) the Requested Discovery is to be used in the Appraisal Proceeding, and (3) Petitioners are “interested person(s)” in that proceeding.

5. This application also meets the discretionary factors of Section 1782, as explained further in the accompanying Memorandum of Law: (1) Respondents are not a party to the foreign proceedings, (2) Cayman courts will be receptive to judicial assistance from a U.S. court, (3) Petitioners are not attempting to circumvent foreign proof-gathering restrictions, and (4) the discovery sought is not intrusive or burdensome. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004).

6. Petitioners therefore respectfully request that this Court expeditiously grant its application for an Order granting Petitioners leave to serve the Respondents with the subpoenas attached as Exhibits 1 and 2 to the Loft Declaration.

WHEREFORE, Petitioners respectfully request that this Court enter an Order:

1. Granting the application for discovery under 28 U.S.C. § 1782;
2. Authorizing Petitioners to take discovery from Respondents, by issuing the Subpoenas; and
3. Directing Respondents to comply with the Subpoenas in accordance with the Federal Rules of Civil Procedure and the Rules of this Court.

Dated: July 19, 2022

Respectfully submitted,

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**Pro hac vice application forthcoming*

Attorneys for Petitioners